THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.5725 of 2001

ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to Proceedings No.V-15013/06/99L&R(SZ)/6429, dated 24-8-1999 of the 4th respondent, Proceedings No.V-11014/58/SZ/LC/SWS/99/684, dated 4-2-2000 of the 3rd respondent and Proceedings No.V-11014/55/2000-L&R, dated 8-9-2000 on the file of 2nd respondent, whereby punishment of reduction of pay to the minimum stage i.e. Rs.6500/- in the time scale of pay of Inspector for a period of two years without cumulative effect was imposed and confirmed by the appellate and revisional authorities, and to quash the same as arbitrary and illegal and consequently to direct the respondents to treat the petitioner to have been continued at the stage of pay in the pay scale attached to the post of Inspector, with all consequential benefits.

According to the petitioner, while he was working as Inspector in the Central Industrial Security Force (CISF), deputed to various Organizations including Intelligence Bureau (IB). Initially, he was deputed to IB for a period of three years and there his efficiency and integrity were recognized and he was rewarded with cash awards and also commendation. The Inspectors deputed to I.B. were also being posted in the Airports especially for handling immigration clearance. Thus, he was also posted in the Indira Gandhi International Airport, New Delhi. As a part of immigration clearance, an Inspector is called upon to verify and certify the correctness of the travel documents including the passports of the passengers leaving the country. After being satisfied about the genuineness of the claim, immigration

clearance would be given. He was adjudged as the best Vigilance Officer for detecting maximum number of forged travel documents. While so, on 13/14-1-1998, he was entrusted with the job of attending immigration clearance and was allotted counter No.11. As per the procedure in vogue, two Officers would be working diagonally to each other and passengers standing in the queue would be going to each Officer in turns. The travel documents of the passengers, in a particular queue, would be checked by either of the Officers. This has been devised only with a view to ensure that higher efficiency is achieved. Counter No.14 was the counter, which is diagonally opposite to counter No.11. On the said date, no Officer has been deputed to counter No.14. Therefore, the entire pressure of work of clearing immigration has fallen on his shoulders. The counter, as such, was very busy and it would be rather impossible for one individual to handle the entire work of passengers in one counter only, as the period was considered to be the peak period, since all the International flights depart around that time. According to the petitioner, he had taken all the precaution and the fact none was posted at counter No.14 was reported to the Duty Officer as well. In spite of bringing this fact to the notice of the Duty Officer, no action was taken. Therefore, he was constrained to handle the entire burden singly; yet, he had cleared all the passengers duly observing the normal procedure (no guidelines have been given for this purpose). It appears, on 17/18-1-1998, 3 (three) persons were deported to India and the papers relating to deportation have originated from Zurich. The allegation levelled against these 3 individuals was that their passports have been forged. As per the procedure that was in vogue, appropriate action has been initiated in the International Airport, New Delhi. Further, based on this instance, a charge sheet has been

issued to him on 30-10-1998 enumerating a sole charge that he was negligent in discharging his duties at counter No.11 on the intervening night of 13/14-1-1998 in giving immigration clearance to two Srilankan passengers. Petitioner replied the charge sheet and highlighted the fact that counter No.14 was unmanned and on that day he was the only person, who was looking after the said job. The entire burden was shouldered on him. Further, there is no sophisticated machinery available at New Delhi Airport and the training imparted to him was not an expert training oriented towards detection of forgeries and he has an unblemished service record warranting no action in pursuance of the said charge sheet. Having not satisfied with the explanation offered by the petitioner, departmental enquiry was initiated. After completion of enquiry, the Enquiry Officer submitted a report on 4-6-1999 holding the petitioner guilty of the charge. Thereafter, the disciplinary authority issued a show cause notice and on considering the explanation offered by the petitioner, imposed a penalty of reduction of pay to minimum stage i.e. Rs.6500/- in the time scale of pay of Inspector for a period of two years by an Order dated 24-8-1999 of the 4th respondent. Challenging the same, petitioner carried the matter in appeal before the appellate authority-3rd respondent and on failure, further carried the matter before the revisional authority-2nd respondent. The revisional authority also dismissed the revision. Hence, this Writ Petition.

Learned counsel for the petitioner strenuously contended that absolutely there was no evidence to show that the petitioner was negligent and, in fact, there was no negligence on the part of the petitioner in clearing the immigration documents of the two passengers concerned. In the International Airports sophisticated machinery should be made available to detect the intrinsic and complicated

documents of forgery etc., whereas in the International Airport at New Delhi, there was no such devices available. It appears, such facilities are available at Zurich Airport and as such, the Zurich Airport Officials could make out the forgery of the documents. Apart from this, as per the normal method of clearing, petitioner had taken all care and admittedly on the night of 13/14-1-1998 there was only one counter, where the petitioner was working, and the other counter was closed. The petitioner had to shoulder the entire responsibility of clearing the immigration documents. With a naked eye, however, effortful one might be, it would not have been possible to detect such minute forgery. Therefore, the petitioner cannot be blamed for clearing those two passengers to travel abroad. Further, no loss is caused either to the organization or to the respondents. Under those circumstances, imposing the punishment of reduction of pay to the minimum of Rs.6500/- in the time scale of pay of Inspector for a period of two years is highly arbitrary and illegal and liable to be set aside.

Whereas, learned counsel for the respondents strenuously contended that the work of clearing immigration documents in international airports is very onerous and the petitioner has casually cleared those documents and could not detect the forgery, though it is seen with naked eyes. Simply because the other counter No.14 was not working on the said date, petitioner cannot be absolved of his responsibility of clearing the immigration documents, as per law. In fact, the authorities have taken a lenient view of the matter in view of his past conduct and imposed a very very minor punishment of reduction of pay to the minimum stage for a period of two years without cumulative effect. The petitioner has not made out any case calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective

submissions made by the learned counsel on either side and perused the impugned Orders and other material made available on record.

Though the learned counsel for the petitioner tried to impress upon the Court that there was no modern devices to detect such intrinsic forgery of the documents, the statement of imputation of misconduct would indicate that though page Nos.1,2,35 and 36 were replaced in the passports, the petitioner instead of detecting the forgeries, granted immigration clearance to the said two passengers. However, the forgeries were detected by Zurich Immigration Authority and the passengers were deported back by Flight No.AF-147. During sustained interrogation, both the passengers disclosed that their passports were arranged by one agent, namely, Balwinder Singh against payment of Rs.2.00 lakhs each. It has been reiterated to all the Officers, several times in special briefing sessions, that persons, who are of Tamil origin and have Tamil passports have direct and cheaper flights to Europe from Chennai and if any Tamil with an Indian Passport issued at Chennai, goes from New Delhi, he is acting suspiciously, because he has to spend much more and it is uneconomical for him to go from Delhi. Despite this, if such a person attempts to take a flight from Delhi, his papers should be checked thoroughly and he should be properly interrogated as to why he is not flying directly from Chennai. Instructions issued time and again are amply clear that the passengers should not be cleared unless the travel documents are genuine and their identity is clearly established. All the Officers posted in Immigration were imparted an intensive basic training in the detection of forgery/impersonation etc., before deploying them as clearing Officers. Refresher courses are also being regularly organized for the immigration Officers to develop the expertise in checking of documents correctly and expeditiously. It is the primary

duty of an Immigration Officer to ensure that no passenger with forged travel documents or somebody else's travel documents is given immigration clearance. He is also required to detect the forgery etc., by minutely checking the passport and other travel documents. But, the petitioner has miserably failed to do so and was negligent in discharge of his official duties for not detecting the forgeries/replacement of pages in the Passports. This itself would indicate that an I.B. Officer of the rank of petitioner is supposed to entertain a suspicion as to why these two passengers, who are Srilankans, were traveling from New Delhi instead of Chennai, which is uneconomical to them.

It is not the case of the petitioner that he had made any such enquiries or put such questions. Some of the pages of the passports were replaced and it cannot be said that such a thing cannot be detected by a naked eye. Be that as it may, in a case of this nature, which involves extra care and caution, to be shown by the delinquent Officer, admittedly, seems to have not been shown, which resulted in allowing two passengers to travel to Zurich. It was luckily the Zurich officials, who detected the forged documents and deported them back. Under these circumstances, the argument of the learned counsel for the petitioner that the petitioner was not provided with proper devices to detect such intrinsic forgery, cannot be accepted.

This is not a case where the signature is forged or some number is replaced. This is a case where some pages of the passport were replaced and still the petitioner says that it is impossible for him to detect forgery, since modern devices were not available and such forgeries cannot be detected by naked eyes in spite of clearing the documents day-in and day-out by him. Except this, no other ground is raised.

In the facts and circumstances of the case, I am of the opinion that for a misconduct of this nature, the punishment imposed by the disciplinary authority as confirmed by the appellate and revisional authorities, cannot be said to be either arbitrary or illegal or disproportionate to that of the misconduct alleged against the petitioner. In fact, the authorities were considerate and had taken a very lenient view of the matter and imposed very very meagre punishment of reduction of pay to the minimum stage in the time scale of pay of Inspector for a period of two years, without cumulative effect, probably, in view of his past good conduct. The Writ Petition is devoid of any merit and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

01-8-2007

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